

REPORT  
of the  
JOINT SUBCOMMITTEE

on

CONTINUING CARE RETIREMENT COMMUNITIES



1984 INTERIM

Maryland State Law Library

md. Y 3 C 76:2/H/1984



General Assembly of Maryland

REPORT

REPORT

of the

JOINT SUBCOMMITTEE

on

CONTINUING CARE RETIREMENT COMMUNITIES

1984 Interim

Prepared by

Research Division  
Department of Legislative Reference



## General Assembly of Maryland

SPECIAL JOINT SUBCOMMITTEE ON CONTINUING CARE RETIREMENT COMMUNITIES

Room 110

LEGISLATIVE SERVICES BUILDING

90 STATE CIRCLE

ANNAPOLIS, MARYLAND 21401-1991

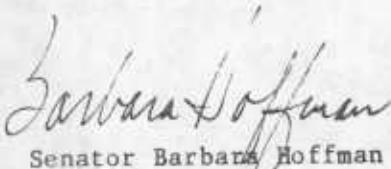
TO THE MEMBERS OF THE GENERAL ASSEMBLY

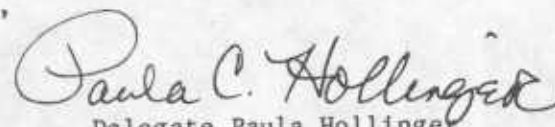
Ladies and Gentlemen:

The Joint Subcommittee was appointed to review the continuing care (life care) industry and the statutory provisions governing it. After careful study of the issues involving the provision of continuing care services, the Joint Subcommittee has made several recommendations it believes will protect subscribers, and that will also allow the industry to grow.

We urge the General Assembly to give serious consideration to the enclosed recommendations.

Sincerely,

  
Senator Barbara Hoffman  
Co-Chairman

  
Delegate Paula Hollinger  
Co-Chairman

I N D E X

Executive Summary of Recommendations	1
Background	1
Findings and Recommendations	3
Appendix A, Proposed Legislation	9
Appendix B, Tables	33
Appendix C, Minutes	60

EXECUTIVE SUMMARY  
OF  
RECOMMENDATIONS

1. Responsibility for administering the continuing care contracts subtitle of Article 70B should remain with the Office on Aging. Increasing staff resources to administer the subtitle is recommended.
2. Amend the continuing care contracts statute to allow the Office on Aging to issue a preliminary certificate of registration after approval of the feasibility study and provide for minimum standards for feasibility study approval.
3. Amend the statute to allow deposits to be used upon the issuance of a final certificate of registration prior to the completion of a facility, yet restrict the proportion to be used to provide protection for subscribers.
4. Alter the refund provisions to establish a 21-day cooling off period, during which a subscriber who rescinds the agreement is entitled to a full refund as provided under current law. However, if the agreement is rescinded after the 21 day period and prior to occupancy for any reason except substantial change in physical, mental or financial condition, the subscriber would receive a refund when the unit he contracted for is "resold" or 80 percent of the units are contracted for, whichever occurs first.
5. Amend the statute to add five new provisions that must be included in all continuing care agreements: a) require that a disclaimer of endorsement or guarantee of a community by the State of Maryland be included in every continuing care contract; b) state in the contract that subscribers may organize subscriber associations and may meet privately on campus to conduct business; c) state in the contract that a subscriber has received the latest certified financial statement at least two weeks prior to signing a continuing care agreement; d) state that subscribers may request and shall receive upon request any certified financial statement of a community; and e) describe the conditions under which a provider may receive a final certificate of registration and define the amount of the subscriber's deposit that may be used when the certificate is issued.
6. Establish uniform accounting guidelines and a financial review committee to help assure the financial viability of continuing care communities, empower the Office on Aging to require a financial plan from communities that are in financial difficulty, and provide for the process and procedures to determine if a provider is in financial difficulty.
7. Exempt from the certificate of need process domiciliary, personal or nursing care facilities built by a continuing care community if the facilities will be: for the exclusive use of the community's subscribers; do not exceed 20 percent of the total number of independent living units; and will be located on the campus of the continuing care community.
8. Reorder some of the provisions in the statute to accurately reflect the actual process.

## BACKGROUND

### Overview of the Continuing Care Community Industry

As a result of a fast growing elderly population the continuing care retirement community industry has been experiencing rapid growth over the past few years. Nationally, between 300 and 500 such communities are operating.<sup>1</sup> At this time 19 continuing care communities (CCC) are operating in Maryland and eleven more are in various stages of planning and development. These eleven planned communities, if developed according to expectations, will double<sup>2</sup> the number of living units in continuing care communities in the State.

On average, a continuing care community in Maryland contains 179 units. The average number of units dedicated to independent living is 66; however, the mean is skewed because many of the older traditional communities do not have independent living arrangements. A more accurate indicator of the number of independent living units to be found in a CCC is the median; it indicates that 233 independent living units are provided.

The number of domiciliary care units ranges from zero to 233, with an average of 62. Comprehensive care beds are provided at an average of 51 per community with a high of 300 beds. Three communities provide for separate (off-site) nursing home accommodations.

Eligibility requirements vary although most communities require that individuals be at least 65 years of age and in good physical and mental health. Some communities require a financial review while others give preference to those with no living children or, if the community is affiliated with a religious organization, that individuals be a member of a certain faith.

Variation in services exists; however, most communities provide three meals per day, as well as maintenance and housekeeping services. Some communities even provide recreational services. Medical and nursing services are almost universally provided. Those communities without comprehensive care facilities provide residents with a preference for admission to a nursing home.

Payment plans also vary from community to community. Seven of the nineteen existing communities either solely require the transfer of assets and income or have such an option available. The majority of communities

- 
1. "Life-Care Centers Could Prove Risky to Your Old-Age Security", Washington Business, The Washington Post, Pg. 71, May 14, 1984.
  2. Deborah B. Bacharach, "Continuing Care Communities: A Maryland Perspective", Maryland Bar Journal, VOL. XVII, #3, March, 1984.

## FINDINGS AND RECOMMENDATIONS

1. Responsibility for administering the continuing care contracts subtitle of Article 70B should remain with the Office on Aging.

The Joint Subcommittee believes that the Office on Aging should continue to administer the continuing care contracts law for several reasons. First, the provision of continuing care is a complex subject area and the Office on Aging has developed expertise in it. Additionally, shifting jurisdiction to another executive agency undermines the policy of a single point of entry for the elderly who are seeking information or services. Finally, while the contract between a provider and a subscriber is a contract for services and does not convey any property interest or equity in the community, it is not an insurance contract.

However, it appears to the Joint Subcommittee that the Office on Aging must have additional staff resources to dedicate to the administration of the continuing care contracts law. At the present time the Office has two individuals each allotting a portion of their time to the complex tasks of administering the continuing care subtitle. The Joint Subcommittee believes that proper administration requires the full attention of at least two staff persons.

2. Amend the continuing care contracts statute to allow the Office on Aging to issue a preliminary certificate of registration after approval of the feasibility study and provide for minimum standards for feasibility study approval.

In order to operate a continuing care community in Maryland a provider must obtain a certificate of registration from the Office on Aging. The certificate may be issued by the Office when the requirements of the law are met regarding the contract, escrow provisions and advertising materials. The law also requires the Office to determine that the facilities necessary for the provision of continuing care are in existence before a certificate is issued. This requirement has created a barrier to development and subsequently was ignored by the Office.

Under the current statute a provider may collect deposits and hold them in escrow after approval of its feasibility study. However, it may not enter into contracts with subscribers until it receives a certificate of registration. The certificate cannot be issued until facilities are in existence, yet the provider cannot obtain construction or permanent financing without demonstrating market viability. Market viability is demonstrated to financiers through the sale of a proportion (usually 60 percent or more) of the available contracts.



By ignoring the existence of the facilities requirement the Office on Aging has been able to issue certificates of registration and allow the continuing care industry to expand. The problem is that issuance of the certificate allows the providers to use escrowed deposits very early in the development process and places the subscribers at a higher risk of losing a substantial deposit.

To remedy this situation a preliminary certificate is recommended. Such a certificate would be issued upon the approval of the feasibility study and would allow the provider to enter into contracts with subscribers as under current law deposits could be collected and held in escrow upon approval of a feasibility study. Deposits are to be held in escrow until issuance of the final certificate of registration.

It should be noted that the Office on Aging is promulgating regulations to allow it to issue a preliminary certificate of registration and to establish guidelines for the approval of feasibility studies. The Joint Subcommittee believes that the Office has the statutory authority for the latter but not the former. The Office has regulatory power to implement the continuing care contracts subtitle but the subtitle does not include any reference to preliminary certificates of registration.

Lines 149 through 182 of the proposed legislation (see Appendix A) provide the criteria for approval of the feasibility study and issuance of the preliminary certificate.

3. Amend the statute to allow deposits to be used prior to the completion of a facility yet restrict their use to provide protection for subscribers.

The Joint Subcommittee found, as a result of expert testimony, that developers of continuing care communities need to have access to some funds in order to obtain financing from underwriters. Barring the use of deposits until facilities are completed would alter the current practice and severely restrict the development of continuing care communities. While most providers are currently non profit entities, a total restriction on the use of deposits would encourage the entrance of for-profit providers. Costs to subscribers would also be increased considerably.

To facilitate this change the law needs to be amended to differentiate between an application for an initial certificate of registration and an application for a renewal of a certificate of registration. Concerning initial applications, the proposed legislation retains the current requirements for issuance of a final certificate of registration, with the exception of the requirement that facilities exist, and adds two other requirements. The applicant must have been issued a preliminary certificate and must have contracted at least 65 percent of the available units, with a minimum of 10 percent of the aggregate entrance fees received as deposits,



have closed on construction financing, and have a commitment for permanent long-term financing. Once these requirements have been met the Office on Aging shall issue a final certificate of registration and the provider will be entitled to use 50 percent of the collected and escrowed deposits. The remainder of the deposits shall be released for use when construction is completed and the appropriate licensing or occupancy permit is obtained from the responsible local jurisdiction (See Appendix A, lines 282 through 314.)

4. Alter the refund provisions to establish a 21-day cooling off period, during which a subscriber who rescinds the agreement is entitled to a full refund as provided under current law. However, if the agreement is rescinded after the 21 day period and prior to occupancy for any reason except substantial change in physical, mental or financial condition, the subscriber would receive a refund when the unit he contracted for is "resold" or 80 percent of the units are contracted for, whichever occurs first.

Testimony was given to the Joint Subcommittee indicating that subscribers often change their minds about entering a continuing care community. Coupled with the liberal refund provisions in existing law, this change of heart may cause financial difficulty for communities under construction. While the Joint Subcommittee did not receive any numerical data on the frequency with which subscribers "community shop" for the best deal, it believes that the majority of subscribers make the decision to enter a continuing care community with considerable thought and advice.

Accordingly, to provide a greater commitment to the community from subscribers, it is recommended that a 21 day cooling off period be established. Under this proposal a subscriber would still be entitled to a full refund prior to occupancy for terminating the contract due to a substantial change in physical, mental, or financial condition. However, if a subscriber rescinded the agreement for any other reason after a 21 day cooling off period he would be entitled to a full refund as currently provided in the law, except the refund would not have to be given until the unit contracted for by the rescinding subscriber is contracted to another subscriber or until 80 percent of the provider's units are contracted for, whichever occurs first. In keeping with the idea of encouraging greater commitments to developing communities, a provider will be able to withhold 100 percent of the amount to be refunded until the conditions are met, as opposed to being able to withhold only 4 percent under current law.

5. Amend the statute to add five new provisions that must be included in all continuing care agreements: a) require that a disclaimer of endorsement or guarantee of a community by the State of Maryland be included in every continuing care contract; b) state in the contract that subscribers may organize subscriber associations and may meet privately on campus to conduct business; c) state in the contract that a subscriber has received the latest certified financial statement at least two weeks prior to signing a continuing care agreement; d) state that subscribers may request and shall receive upon request any certified financial statement of a community; and e) describe the conditions under which a provider may receive a final certificate of registration and state the amount of the subscriber's deposit that may be used when the certificate is issued.

The Joint Subcommittee recommends a disclaimer to make it clear to subscribers that the State in no way guarantees the solvency of any continuing care community despite its rather extensive involvement with the industry. In light of its other recommendations, which will only extend the involvement of the Office on Aging, the disclaimer is extremely important. The Office has, by regulation, already made the disclaimer part of the certificate of registration; however, the Joint Subcommittee believes that the placement of the disclaimer in the actual contract will better serve the subscribers' interests.

Four other consumer protection provisions should be added to the contract. First the subscribers should be guaranteed the right to organize subscriber associations and to meet privately in the community to conduct business. While there is no evidence that organizing associations is discouraged by community management, it is felt that the right of organization should be spelled out in the contract.

The contract should also state that subscribers may request and the community shall provide upon request, any certified financial statement the subscriber wishes to see. Additionally, the contract should stipulate that at least two weeks prior to signing the continuing care agreement the subscriber has received the most recent certified financial statement of the community. Finally, the contract should describe the conditions under which a provider may be issued a final certificate of registration and state the amount of the subscriber's deposit that may be used when the certificate is issued. These three provisions further enhance Maryland's disclosure approach to regulating continuing care communities by better educating subscribers and potential subscribers.

6. Establish uniform accounting guidelines and a financial review committee to help assure the financial viability of continuing care communities and empower the Office on Aging to require a financial plan from communities that are in financial difficulty, and provide for the process and procedures to determine if a provider is in financial difficulty.

The Joint Subcommittee investigated several methods of "assuring financial viability" of continuing care communities, including the establishment of reserve requirements. In view of the responsible attitude displayed by the continuing care industry in Maryland, the Joint Subcommittee does not favor the establishment of reserve requirements.

It is recommended that uniform accounting guidelines be established and institutionalized. The Office on Aging has promulgated regulations to require that certified financial statements be prepared in accordance with the Audit Guide developed jointly with Ernst and Whinney. Additionally, it is recommended that along with the certified financial statement communities be required to submit cash operating budgets not only for the preceding fiscal year but also for the current fiscal year and a projected cash operating budget for the next fiscal year.

Establishment of a financial review committee, comprised of individuals knowledgeable in continuing care, certified public accountants, consumers and a representative of the financial community, empowered to assist the Office on Aging in reviewing financial statements is recommended. The primary purpose of the review committee is to assist the Office in determining if a provider is in financial difficulty and to help the office, in conjunction with the provider, develop a 5 year financial plan to improve the provider's financial condition. (See Appendix A, lines 526 through 599)

As a means of ensuring compliance from providers, it is recommended that the Office on Aging be given the power to withhold the renewal of a certificate of registration.

7. Exempt from the certificate of need process domiciliary, personal or nursing care facilities built by a continuing care community if the facilities will be: for the exclusive use of the community's subscribers; do not exceed 20 percent of the total number of independent living units; and will be located on the campus of the continuing care community.

To further facilitate the development of continuing care communities, the Joint Subcommittee recommends that domiciliary, personal, and nursing care facilities built by a continuing care community for the exclusive use of its subscribers should not be regulated by the certificate of need process. However, to be exempt from the certificate of need process the facility must be located on the campus of the continuing care provider and the number of beds at the facility must not exceed 20 percent of the independent living units at the community.

Primarily it is thought that nursing beds in continuing care communities do not compete for the same population with the beds located in nursing homes. Secondly, Winklevoss and Powell<sup>1</sup> state that national data indicate that continuing care communities reduce health care utilization.

8. Reorder some of the provisions in the statute to accurately reflect the actual process.

~

Current law is difficult to comprehend, not only due to the complexity of the subject matter, but because the process is not sequentially reflected in the statute. Reordering the statute to reflect the actual process of obtaining certification will make the law and the proposed changes easier to comprehend.

---

1. Howard Winklevoss and Alwyn V. Powell, Continuing Care Retirement Communities: An Empirical, Financial, and Legal Analysis, Wharton School, 1984.

## APPENDIX A

Typed by 111/aro  
 Proofread by \_\_\_\_\_  
 Corrected by \_\_\_\_\_  
 Checked by \_\_\_\_\_

By:

A BILL ENTITLED

AN ACT concerning

Continuing Care Communities

FOR the purpose of providing for the issuance of a preliminary  
 certificate of registration; providing for the conditions  
 for the issuance of a preliminary certificate; providing  
 criteria for the approval of feasibility studies; providing  
 for the criteria for approving certain applications for  
 certificates of registration; providing when certain  
 proportions of escrowed deposits may be used by a provider;  
 providing for conditions under which a subscriber may be  
 entitled to certain refunds; providing that a certain  
 disclaimer appear in all continuing care contracts;  
 providing that the continuing care agreement state that the  
 subscribers have a right to organize and to meet privately;  
 ensuring that the subscriber has received the latest  
 certified financial statement by a certain time; providing  
 that the continuing care agreement contain provisions  
 relating to the subscriber's right to request certain  
 certified financial statements and to the use of  
 subscribers' deposits and the conditions under which a final

-----  
 EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.  
 [Brackets] indicate matter deleted from existing law.



certificate may be issued; providing that deposits must be 54  
 escrowed until a certain time; creating a Financial Review 55  
 Committee; providing for the qualifications, terms of  
 office, responsibilities, and duties of the members of the 57  
 Financial Review Committee; protecting members from civil  
 liability in certain circumstances; empowering the Office on 58  
 Aging to make a finding of financial difficulty and 59  
 providing a certain procedure to make the determination; 60  
 providing that the Office on Aging may require a provider to 61  
 submit a financial plan under certain conditions; providing 62  
 the conditions under which the Office on Aging may refuse to 63  
 review a certificate of registration; requiring providers to  
 submit cash operating budgets for certain fiscal years when 65  
 applying for renewal of a certificate of registration; 66  
 defining certain terms; and generally relating to 67  
 continuing care communities.

BY repealing and reenacting, with amendments, 69

Article 70B - Office on Aging 72

Section 9(a), 10, 11, 13(a) and (c), and 14 74

Annotated Code of Maryland 76

(1983 Replacement Volume and 1984 Supplement) 77

BY adding to 80

Article 70B - Office on Aging 83

Section 7(j) and 17A 85

Annotated Code of Maryland 87



(1983 Replacement Volume and 1984 Supplement)	88
SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF	92
MARYLAND, That the Laws of Maryland read as follows:	93
Article 70B - Office on Aging	96
7.	99
(J) "CERTIFIED FINANCIAL STATEMENT" MEANS A COMPLETE AUDIT	102
PREPARED AND CERTIFIED TO BY AN INDEPENDENT CERTIFIED PUBLIC	103
ACCOUNTANT.	
9.	106
(a) No provider shall enter into or renew a contract for	110
continuing care in this State without [a] THE APPROPRIATE	111
certificate of registration issued by the Office.	112
[11.] 10.	115
(a) All providers licensed under this article or the Health	118
- General Article who intend to offer continuing care agreements	119
and who have not acquired the necessary facilities for providing	120
continuing care by the effective date of the rules shall file	121
with the Office on Aging a statement of intent to provide	122
continuing care and shall provide the same information as	
required under § [10] 11 for application of a certificate of	123
registration.	

(b) All providers, including those in subsection (a) of 126  
this section, shall also file a feasibility study, in a form 127  
satisfactory to the Office on Aging. The feasibility study shall 128  
include at least the following information: 129

(1) A statement of the purpose and need for the 132  
project and the reasons for the proposed construction, expansion, 133  
or renovation;

(2) A statement of financial resources of the 136  
providers;

(3) A statement of the capital expenditures necessary 139  
to accomplish the project; and

(4) A statement of financial feasibility for the 142  
proposed project which shall include a statement of future 143  
funding sources.

(c) Providers may collect deposits from prospective 146  
members, provided that a feasibility study has been approved by 147  
the Office on Aging and that funds collected are maintained in an 148  
escrow account.

(D) A FEASIBILITY STUDY MAY BE APPROVED BY THE OFFICE ON 150  
AGING WHEN IT DETERMINES THAT: 151

(1) A REASONABLE FINANCIAL PLAN HAS BEEN DEVELOPED 153  
FOR CONSTRUCTING THE PROJECT;

- (2) A MARKET FOR THE CONTINUING CARE FACILITY APPEARS 155  
TO EXIST;
- (3) THE FEASIBILITY STUDY WAS PREPARED BY A CERTIFIED 157  
PUBLIC ACCOUNTANT OR OTHER RECOGNIZED AUTHORITY; AND 158
- (4) THE ESCROW AGREEMENT AND DEPOSIT AGREEMENT STATE 160  
THAT ALL DEPOSITS WILL BE HELD IN ESCROW UNTIL THE ISSUANCE OF A 161  
FINAL CERTIFICATE OF REGISTRATION.
- (E) A PRELIMINARY CERTIFICATE OF REGISTRATION SHALL BE 163  
ISSUED TO THE PROVIDER BY THE OFFICE ON AGING WHEN: 164
- (1) THE FEASIBILITY STUDY HAS BEEN APPROVED; 166
- (2) THE AGREEMENT BETWEEN THE PROVIDER AND THE 168  
SUBSCRIBER MEETS THE REQUIREMENTS OF SECTIONS 13, 14, AND 15 OF 169  
THIS ARTICLE;
- (3) ALL OF THE FINANCIAL AND ORGANIZATIONAL MATERIAL 171  
REQUIRED TO BE SUBMITTED UNDER SECTION 11 OF THIS ARTICLE HAS 172  
BEEN SUBMITTED TO AND RECEIVED BY THE OFFICE ON AGING; 173
- (4) A PROVIDER HAS OBTAINED ANY REQUIRED CERTIFICATE 175  
OF NEED FOR ANY PROPOSED HEALTH CARE FACILITY OR SERVICE 176  
NECESSARY TO MEET THE TERMS OF THE AGREEMENT BETWEEN THE PROVIDER 177  
AND THE SUBSCRIBER; AND
- (5) ALL ADVERTISING AND PROMOTIONAL MATERIALS HAVE 179  
BEEN APPROVED BY THE OFFICE.

(F) UPON ISSUANCE OF A PRELIMINARY CERTIFICATE OF 181  
REGISTRATION, A PROVIDER MAY ENTER INTO CONTINUING CARE 182  
AGREEMENTS WITH SUBSCRIBERS.

[(d) Once a certificate of registration has been issued, 186  
the provider may use the funds held in escrow unless otherwise 187  
prohibited by this subtitle.]

(G) If [no] A FINAL certificate of registration is NOT 189  
issued within 24 months of [filing of the feasibility study] THE 191  
ISSUANCE OF A PRELIMINARY CERTIFICATE OF REGISTRATION, or such 192  
longer time as is allowed by the Office on Aging for good cause 193  
shown, the Office shall require the person to refund all deposits 194  
and to cease in its attempts to offer continuing care at the  
location specified in the feasibility study. 195

[10.] 11. 197

(a) A provider shall file an application for a certificate 201  
of registration on a form prescribed by the Office. The 202  
application shall contain at least the following information and 204  
be supported by the following attachments:

(1) The name and address of the facility and the name 207  
and address of any affiliated parent or subsidiary corporation or 208  
partnership.

(2) The names and addresses of the provider if the 211  
provider is an individual; the partners or members if the 212  
provider is a partnership or other unincorporated association; or 213

the stockholders holding at least a 10 percent interest in a 214  
stock corporation, or the members in a nonstock corporation, and 215  
the members of the Board of Directors if the provider is a  
corporation; along with any significant financial interests such 216  
persons may have with a vendor or provider of services at the 217  
facility. As used in this subsection, a "significant financial 218  
interest" means an interest of 10% or more.

(3) A copy of the corporate charter, partnership 221  
agreement, articles of association, membership agreement, or 222  
trust agreement as it pertains to the legal organization of the 223  
applicant.

(4) A certified statement of the applicant's 226  
financial situation, including a balance sheet and income 227  
statements, for the 3 most recent fiscal years. If the 228  
applicant's fiscal year ended more than 90 days prior to the date 229  
of filing, there shall also be included an income statement, 230  
which need not be certified, covering the period between the date 231  
the fiscal year ended and a date not more than 90 days prior to 232  
the date the application is filed.

(5) A statement as to whether the provider was or is 235  
affiliated with a religious, charitable, or other nonprofit 236  
organization, the extent of any affiliation and the extent, if 237  
any, to which the affiliate organization will be responsible for 238  
the financial and contractual obligations of the applicant.

(6) A copy of the agreement to be entered into 241  
between the provider and subscribers for continuing care. 242

(7) A statement of the fee structure, including 245  
escalator or other automatic adjustment provisions. 246

(8) A description of the facility which is proposed 249  
to be used or is being used to furnish continuing care. 250

(9) A statement of the role of any publicly funded 253  
benefit or insurance program in the financing of the care. 254

(10) A sample of each previously published or planned 257  
advertisement or circular for the facility during the past 5 258  
years.

(11) Other reasonable and pertinent data as the 261  
office shall require.

(b) Annually thereafter, within 120 days after the end of 264  
its fiscal year, the provider shall file an application for a 265  
renewal certificate on a form prescribed by the Office. The 267  
application shall indicate any additions or changes to the 268  
information required by subsection (a) of this section, and shall 269  
be accompanied by a certified financial statement for the  
preceding fiscal year, A CASH BASIS OPERATING BUDGET FOR THE 270  
CURRENT FISCAL YEAR, AND A PROJECTED CASH BASIS OPERATING BUDGET 271  
FOR THE NEXT SUCCEEDING FISCAL YEAR. THE CERTIFIED FINANCIAL 272  
STATEMENT SHALL BE PREPARED IN ACCORDANCE WITH AN AUDIT GUIDE 273  
ADOPTED BY THE OFFICE ON AGING. If the application and



51r0851

accompanying information is not received by the Office within 275  
the 120-day period, a late fee may be charged. Failure to file 276  
the required information within 90 days of the due date shall be  
a violation of this subtitle. 277

(c) When an applicant has more than one facility offering 279  
continuing care, separate applications for registration and 280  
renewal certificates shall be made for each facility. 281

(D) (1) UPON RECEIPT OF AN APPLICATION, THE OFFICE SHALL 283  
REVIEW THE APPLICATION AND DETERMINE IF: 284

(I) THE DOCUMENTS REQUIRED HAVE BEEN FILED; 286

(II) THE PROPOSED CONTINUING CARE CONTRACTS 288  
MEET THE REQUIREMENTS OF THIS SUBTITLE;

(III) WHEN APPROPRIATE, THE PROVIDER HAS BEEN 290  
LICENSED OR CERTIFIED BY THE DEPARTMENT OF HEALTH AND MENTAL 291  
HYGIENE, THE HEALTH RESOURCES PLANNING COMMISSION, OR THE OFFICE 292  
ON AGING;

(IV) THE ADVERTISING MATERIALS AND CIRCULARS 294  
FILED ARE NOT DECEPTIVE, MISLEADING, OR LIKELY TO MISLEAD; 295

(V) THE APPLICANT HAS BEEN ISSUED A PRELIMINARY 297  
CERTIFICATE OF REGISTRATION; AND

(VI) AT LEAST 65 PERCENT OF THE AVAILABLE UNITS 299  
HAVE BEEN CONTRACTED FOR WITH A MINIMUM 10 PERCENT OF THE 300  
ENTRANCE FEE PAID AS A DEPOSIT FOR EACH CONTRACTED UNIT, CLOSING 301



ON CONSTRUCTION FINANCING HAS TAKEN PLACE, AND THERE IS A 301  
COMMITMENT FOR PERMANENT LONG-TERM FINANCING; 302

(2) WHEN THE OFFICE HAS DETERMINED THAT THE 304  
REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION HAVE BEEN MET, 305  
THE OFFICE SHALL ISSUE A FINAL CERTIFICATE OF REGISTRATION TO THE 306  
APPLICANT. IF THE APPLICATION IS DISAPPROVED, THE OFFICE SHALL 307  
SET FORTH ITS REASONS FOR DENIAL IN WRITING. 308

(3) ONCE A FINAL CERTIFICATE OF REGISTRATION HAS BEEN 310  
ISSUED, THE PROVIDER MAY USE 50 PERCENT OF THE ESCROWED DEPOSITS. 311  
WHEN CONSTRUCTION IS COMPLETED AND THE PROVIDER HAS BEEN ISSUED A 312  
CERTIFICATE OF OCCUPANCY, OR THE EQUIVALENT, BY THE APPROPRIATE 314  
LOCAL JURISDICTION, THE REMAINING DEPOSITS HELD IN ESCROW MAY BE  
USED.

[(d)] (E) Upon receipt of an application FOR THE ANNUAL 316  
RENEWAL OF A FINAL CERTIFICATE OF REGISTRATION, the Office shall 318  
review the application and determine if:

(1) The documents required have been filed; 321

(2) The proposed continuing care contracts meet the 324  
requirements of this subtitle;

(3) THE PROVIDER HAS COMPLIED WITH SECTION 17A OF 327  
THIS ARTICLE IF IT HAS BEEN FOUND TO BE IN FINANCIAL DIFFICULTY; 328

[(3) Necessary] (4) IN THOSE INSTANCES IN WHICH THE 331  
APPLICANT HAS BEEN OPERATING A CONTINUING CARE FACILITY, THE 332

51r0851

NECESSARY facilities for providing continuing care are in 333  
existence;

[(4)] (5) When appropriate, the facilities have been 336  
[otherwise] licensed or certified by the Department of Health and 337  
Mental Hygiene or the Office on Aging; and

[(5)] (6) The advertising materials and circulars 340  
filed are [untrue,] NOT deceptive, misleading, or likely to 342  
mislead.

[(e)] (F) If the application FOR RENEWAL is approved, the 345  
certificate of registration shall be issued and the provider may 347  
CONTINUE TO offer [the contract] CONTRACTS to the public. If the 349  
application FOR RENEWAL is disapproved, the Office shall set  
forth its reasons for denial of the application in writing. 350

[(f)] (G) It shall be the responsibility of the Office to 354  
make the information provided pursuant to this section available  
to all interested persons. The Office shall publicize the 355  
availability of this information. 356

[(g)] (H) Fees collected by a provider under the terms of a 359  
continuing care agreement may not be used for purposes other 360  
than those set forth in the agreement. 361

13. 364

(a) In addition to such other provisions as may be 367  
considered proper to effectuate the purpose of any continuing 368

care agreement, each agreement executed between a subscriber and 369  
a provider shall:

(1) Show the total consideration paid by the 372  
subscriber for continuing care including the value of all 373  
property transferred, donations, entrance fees, subscriptions, 374  
monthly fees, and any other fees paid or payable by or on behalf 375  
of a subscriber.

(2) Specify all services such as food, shelter, 378  
medical care, nursing care, or other health services, which are 379  
to be provided by the provider to each subscriber, including in 380  
detail all items which each subscriber will receive, whether the 381  
items will be provided for a designated time period or for life. 382  
The contract shall designate the classes of subscribers, if any.

(3) Describe the procedures to be followed by the 385  
provider when the provider temporarily or permanently changes the 386  
subscriber's accommodation within the facility or transfers the 387  
subscriber to another health facility. A subscriber's 388  
accommodations shall be changed only for the protection of the 389  
health or safety of the subscriber or the general and economic  
welfare of the residents. 390

(4) Describe the policies that will be implemented in 393  
the event the subscriber becomes unable to meet the monthly fees. 394

(5) State the policy of the provider with regard to 397  
changes in accommodations and the procedure to be followed to 398

51r0851

implement that policy in the event of an increase or decrease in 399  
the number of persons occupying an individual unit.

(6) Provide in clear and understandable language, in 402  
print no smaller than the largest type used in the body of said 403  
agreement, the terms governing the refund of any portion of the 404  
entrance fee in the event of discharge by the provider or 405  
cancellation by the subscriber.

(7) State the terms under which an agreement is 408  
canceled by the death of the subscriber. 409

(8) Provide in clear and understandable language in 412  
print no smaller than the largest type used in said agreement, 413  
whether or not monthly fees, if charged, will be subject to 414  
periodic increases.

(9) Provide that charges for care paid in advance in 417  
one lump sum only shall not be increased or changed during the 418  
duration of the agreed upon care.

(10) State funeral and burial services which will not 421  
be provided by the provider.

(11) Give a description of the living quarters. 424

(12) State the conditions, if any, under which a unit 427  
may be assigned to the use of another by the subscriber. 428

(13) State the religious or charitable affiliations 431  
of the provider and the extent, if any, to which the affiliate 432

51r0851

organization will be responsible for the financial and contract 433  
obligations of the provider.

(14) State the subscriber's and provider's respective 436  
rights and obligations as to use of the facility and as to real 437  
and personal property of the subscriber placed in the custody of 438  
the provider.

(15) STATE THAT THE SUBSCRIBERS SHALL HAVE THE RIGHT 441  
TO ORGANIZE AND OPERATE A SUBSCRIBER ASSOCIATION AT THE FACILITY 442  
AND TO MEET PRIVATELY TO CONDUCT BUSINESS. 443

[(15)] (16) State what, if any, fee adjustments will 445  
be made in the event the subscriber is voluntarily absent from 446  
the facility for an extended period of time.

[(16)] (17) Specify the circumstances, if any, under 449  
which the subscriber will be required to apply for Medicaid, 450  
Medicare, public assistance, or any public benefit program. 451

(18) CONTAIN IN CAPITAL LETTERS IN PRINT NO SMALLER 453  
THAN THE LARGEST TYPE USED IN THE AGREEMENT AND UNDERLINED: "A 454  
PRELIMINARY OR FINAL CERTIFICATE OF REGISTRATION IS NOT AN 455  
ENDORSEMENT OR GUARANTEE OF THIS FACILITY BY THE STATE OF 456  
MARYLAND. THE MARYLAND OFFICE ON AGING URGES YOU TO CONSULT WITH 457  
AN ATTORNEY AND A SUITABLE FINANCIAL ADVISOR BEFORE SIGNING ANY 458  
DOCUMENTS."

(19) STATE THAT THE UNDERSIGNED HAS RECEIVED AND 461  
REVIEWED THE LATEST CERTIFIED FINANCIAL STATEMENT AND THAT A COPY 462

51r0851

OF THE CERTIFIED FINANCIAL STATEMENT WAS RECEIVED AT LEAST 2 463  
WEEKS BEFORE SIGNING THE AGREEMENT.

(20) PROVIDE THAT THE FACILITY WILL MAKE AVAILABLE TO 466  
THE SUBSCRIBER, UPON REQUEST, ANY CERTIFIED FINANCIAL STATEMENT 467  
TRANSMITTED TO THE OFFICE ON AGING.

(21) WHERE APPLICABLE, DESCRIBE THE CONDITIONS UNDER 470  
WHICH THE PROVIDER MAY BE ISSUED A FINAL CERTIFICATE OF 471  
REGISTRATION, MAY USE ESCROWED DEPOSITS, AND, STATE THE AMOUNT OF 472  
THE SUBSCRIBER'S DEPOSIT THAT MAY BE USED UPON ISSUANCE OF A  
FINAL CERTIFICATE OF REGISTRATION. 473

(c) Any agreement submitted to the Office pursuant to § 477  
[10] 11 which does not contain the above disclosures shall be 478  
returned to the facility for amendment. No certificate of  
registration shall be issued by the Office unless and until the 479  
agreement meets the requirements of this section. 480

14. 483

(a) A subscriber shall have the right to rescind a 486  
continuing care agreement for any reason prior to the date of 487  
occupancy by the said subscriber.

(b) (1) If, prior to the subscriber occupying a unit, the 490  
subscriber dies, the provider determines that the subscriber is 491  
ineligible for entrance into the facility, or the subscriber 492  
elects to terminate the continuing care agreement because of a 493  
substantial change in the subscriber's physical, mental or 494



51r0851

financial condition, the agreement shall be automatically 494  
cancelled, and the subscriber or the subscriber's legal 495  
representative shall receive within 30 days thereafter a full 496  
refund of all moneys paid to the provider, except:

(i) Those special additional costs incurred by 499  
the provider due to modifications in the structure or furnishings 500  
of the unit specifically requested by the subscriber and set 501  
forth in writing in a separate addendum to the agreement and 502  
signed by the subscriber, and

(ii) A processing fee approved by the Office. 505

(2) In the event that the subscriber rescinds the 508  
continuing care agreement WITHIN 21 DAYS AFTER ENTERING INTO THE 509  
AGREEMENT AND prior to occupying the unit for any reason other 510  
than the reasons specified in subsection (b)(1) of this section, 511  
the refund provisions shall be the same as those provided for in 512  
subsection (b)(1) of this section.[, except that the provider may 513  
hold an additional amount of up to 4 percent of the entrance fee 514  
until a continuing care agreement is entered into between the  
provider and another subscriber with respect to the unit] IF 515  
PRIOR TO OCCUPYING A UNIT THE SUBSCRIBER RESCINDS THE CONTINUING 517  
CARE AGREEMENT AFTER THE 21-DAY PERIOD FOR ANY REASON OTHER THAN 518  
THE REASONS SPECIFIED IN SUBSECTION (B)(1) OF THIS SECTION, THE 519  
REFUND PROVISIONS WILL BE THE SAME AS THOSE IN SUBSECTION (B)(1) 520  
OF THIS SECTION EXCEPT THAT THE PROVIDER MAY WITHHOLD THE REFUND  
UNTIL A CONTINUING CARE AGREEMENT IS ENTERED INTO BETWEEN THE 521  
PROVIDER AND ANOTHER SUBSCRIBER WITH RESPECT TO THE UNIT or 80 522



percent of the units at the facility are contracted for, 523  
whichever occurs first.

(c) A subscriber may rescind a continuing care agreement at 526  
any time if the terms of the agreement are in violation of the 527  
terms of this subtitle and the subscriber is injured by the 528  
violation. The subscriber shall be entitled to treble damages 529  
for extensive injuries arising from the violations.

(d) If an applicant for admission to a continuing care 532  
facility withdraws the application prior to execution of a 533  
continuing care agreement, the applicant shall receive a full 534  
refund of all moneys paid to the provider except a processing fee 535  
approved by the Office.

17A. 538

(A) IN THIS SECTION, "FINANCIAL DIFFICULTY" MEANS CURRENT 540  
OR IMPENDING FINANCIAL CONDITIONS WHICH IMPAIR OR MAY IMPAIR THE 541  
ABILITY OF THE FACILITY TO MEET EXISTING OR FUTURE OBLIGATIONS. 542

(B) THERE IS A FINANCIAL REVIEW COMMITTEE. 544

(C) (1) THE COMMITTEE CONSISTS OF 7 MEMBERS APPOINTED BY 546  
THE DIRECTOR OF THE OFFICE ON AGING. 547

(2) OF THE 7 MEMBERS, 2 SHALL BE KNOWLEDGEABLE IN THE 549  
FIELD OF CONTINUING CARE, 2 SHALL BE CERTIFIED PUBLIC 550  
ACCOUNTANTS, 1 SHALL BE FROM THE FINANCIAL COMMUNITY, AND 2 SHALL 551  
BE CONSUMER MEMBERS, PREFERABLY RESIDENTS OF CONTINUING CARE 552  
FACILITIES.

(3) THE TERM OF A MEMBER IS 3 YEARS. THE TERMS OF 554  
MEMBERS ARE STAGGERED AS REQUIRED BY THE TERMS PROVIDED FOR 555  
MEMBERS OF THE BOARD ON JULY 1, 1985.

(4) A MEMBER MAY SERVE CONSECUTIVE TERMS. 557

(5) THE COMMITTEE SHALL ELECT ITS CHAIRMAN. 559

(6) MEMBERS MAY NOT RECEIVE COMPENSATION, HOWEVER, 561  
MEMBERS ARE ENTITLED TO REIMBURSEMENT FOR EXPENSES INCURRED IN 562  
THE PERFORMANCE OF THEIR OFFICIAL DUTIES AS PROVIDED FOR IN THE 563  
STATE BUDGET.

(7) ANY FINANCIAL REVIEW COMMITTEE MEMBER ACTING IN 565  
GOOD FAITH AND WITHIN THE SCOPE OF HIS DUTIES IS IMMUNE FROM 566  
CIVIL LIABILITY AS A RESULT OF THOSE ACTS.

(8) A FINANCIAL REVIEW COMMITTEE MEMBER MAY NOT 568  
PARTICIPATE IN A REVIEW OF A CONTINUING CARE PROVIDER'S FINANCIAL 569  
CONDITION IF THAT MEMBER HAS AN INTEREST IN THE PROVIDER, AS 570  
DEFINED BY THE MARYLAND PUBLIC ETHICS LAW.

(D) AFTER REVIEWING THE PROVIDER'S APPLICATION FOR A 572  
RENEWAL CERTIFICATE, THE OFFICE MAY REFER THE APPLICATION AND 573  
ACCOMPANYING MATERIALS TO THE COMMITTEE FOR ITS CONSIDERATION. 574  
THE COMMITTEE SHALL REVIEW THE APPLICATION AND THE MATERIALS AND 575  
MAY REQUEST ADDITIONAL INFORMATION FROM THE OFFICE. WITHIN 45 576  
DAYS OF RECEIPT OF AN APPLICATION, THE COMMITTEE SHALL NOTIFY THE 577  
OFFICE IN WRITING WHETHER OR NOT THE COMMITTEE FINDS THE PROVIDER 578  
IN FINANCIAL DIFFICULTY, STATING THE REASONS FOR ITS FINDINGS.

THE COMMITTEE MAY REQUEST ONE 30-DAY EXTENSION FROM THE DIRECTOR 579  
OF THE OFFICE ON AGING. THE DIRECTOR MAY GRANT THE EXTENSION. 580

(E) WITHIN 25 DAYS OF BEING NOTIFIED OF THE COMMITTEE'S 582  
FINDINGS, THE OFFICE SHALL CONSIDER THE FINDINGS OF THE COMMITTEE 583  
AND MAKE A FINAL DETERMINATION OF FINANCIAL DIFFICULTY. IF THE 584  
OFFICE DETERMINES THAT THE PROVIDER IS IN FINANCIAL DIFFICULTY IT 585  
SHALL IMMEDIATELY NOTIFY THE PROVIDER BY CERTIFIED MAIL, RETURN 586  
RECEIPT REQUESTED.

(F) ANY PROVIDER NOTIFIED OF FINANCIAL DIFFICULTY BY THE 588  
OFFICE SHALL PREPARE AND SUBMIT TO THE OFFICE FOR ITS APPROVAL A 589  
5-YEAR FINANCIAL PLAN TO CORRECT THE CAUSES OF THE FINANCIAL 590  
DIFFICULTY. THE FINANCIAL PLAN SHALL BE SUBMITTED WITHIN 60 DAYS 591  
OF NOTIFICATION. THE PROVIDER MAY REQUEST ONE 30-DAY EXTENSION 592  
FROM THE DIRECTOR OF THE OFFICE. THE DIRECTOR MAY GRANT THE  
EXTENSION. THE OFFICE SHALL RESPOND TO THE PROVIDER WITHIN 60 594  
DAYS OF RECEIPT OF THE PROPOSED PLAN. THE OFFICE MAY WORK WITH  
THE PROVIDER TO ESTABLISH THE FINANCIAL PLAN AND MAY CONSULT WITH 595  
THE FINANCIAL REVIEW COMMITTEE PRIOR TO APPROVING THE PLAN. UPON 596  
APPROVAL THE PLAN SHALL BE IMPLEMENTED. 597

(G) THE OFFICE MAY WITHHOLD THE RENEWAL CERTIFICATE: 599

(1) IF THE PROVIDER DOES NOT PREPARE A FINANCIAL 602  
PLAN;

(2) IF THE PROVIDER IS UNWILLING OR UNABLE TO PREPARE 604  
A FINANCIAL PLAN;

(3) IF THE FINANCIAL PLAN IS INADEQUATE TO CORRECT 606  
THE CURRENT OR IMPENDING FINANCIAL CONDITION WHICH NECESSITATED 607  
THE FINANCIAL PLAN; OR

(4) IF THE PROVIDER FAILS TO IMPLEMENT THE PLAN. 609

(H) THE PROVIDER SHALL SUBMIT TO THE OFFICE ON AGING AN 611  
ANNUAL PROGRESS REPORT FOR THE TERM OF ITS FINANCIAL PLAN AND 612  
SHALL REVISE ITS FINANCIAL PLAN IF THE OFFICE ON AGING DETERMINES 613  
THAT REVISIONS ARE NECESSARY.

SECTION 2. AND BE IT FURTHER ENACTED, That the initial 616  
appointments to the Financial Review Committee shall be as 617  
follows: 1 member knowledgeable in continuing care, 1 member who 618  
is a certified public accountant, and 1 consumer member shall 619  
serve for 1 year; the member who is a representative of the 620  
financial community shall serve for 2 years; and 1 member 621  
knowledgeable in continuing care, 1 member who is a certified  
public accountant, and 1 consumer member shall serve 3 years. 622

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall 627  
take effect July 1, 1985.

Typed by bm/Aro

Proofread by \_\_\_\_\_

Corrected by \_\_\_\_\_

Checked by \_\_\_\_\_

By: 22

A BILL ENTITLED 25

AN ACT concerning 30

Continuing Care Communities - Related Institutions and 33

Certificate of Need 34

FOR the purpose of exempting, under certain conditions, from 38

certificate of need requirements, facilities built by 39

providers of continuing care to provide domiciliary, 40

personal, or nursing care. 40

BY repealing and reenacting, with amendments, 42

Article - Health - General 45

Section 19-301(1) 47

Annotated Code of Maryland 49

(1982 Volume and 1984 Supplement) 50

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF 53

MARYLAND, That the Laws of Maryland read as follows: 54

Article - Health - General 57

19-301. 60

-----  
EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

(1) (1) "Related institution" means an organized institution, environment, or home that:

(i) Maintains conditions or facilities and equipment to provide domiciliary, personal, or nursing care for 2 or more unrelated individuals who are dependent on the administrator, operator, or proprietor for nursing care or the subsistence of daily living in a safe, sanitary, and healthful environment; and

(ii) Admits or retains the individuals for overnight care.

(2) "Related institution" does not include:

(i) An adult residential environment or home that is certified by the Department of Human Resources;

(ii) A nursing facility or visiting nurse service that is conducted only by or for adherents of a bona fide church or religious organization, in accordance with tenets and practices that include reliance on treatment by spiritual means alone for healing;[or]

(iii) Any sheltered housing for the elderly, as defined in Article 70B, § 1 of the Code, that is certified by the Office on Aging, unless the housing provides for more than 15 individuals:

1. In one building that does not have more than one apartment unit; or



2. If there are apartment units in the 101  
building, in one apartment unit; OR

(IV) A FACILITY TO PROVIDE DOMICILIARY, 104  
PERSONAL, OR NURSING CARE CONSTRUCTED BY A PROVIDER OF CONTINUING 105  
CARE, AS DEFINED BY ARTICLE 70B OF THE CODE, IF:

1. THE FACILITY IS FOR THE EXCLUSIVE USE 107  
OF THE PROVIDER'S SUBSCRIBERS;

2. THE NUMBER OF BEDS IN THE FACILITY 109  
DOES NOT EXCEED 20 PERCENT OF THE NUMBER OF INDEPENDENT LIVING 110  
UNITS AT THE CONTINUING CARE COMMUNITY; AND

3. THE FACILITY IS LOCATED ON THE CAMPUS 112  
OF THE CONTINUING CARE FACILITY.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall 116  
take effect July 1, 1985.



APPENDIX B

APPENDIX I: COMPARATIVE ANALYSIS CONTINUING CARE LEGISLATION

	Maryland Md. Ann. Code Art 70B §§ 7-23	Florida Fla. Stat. Ann. §§651. 011 thru 132	California Cal. Health and Safety Code §§1771-1789.5	Arizona Ariz. Rev. Stat. Ann. §§ 20-1801 thru 1812	Colorado Colo. Rev. Stat. §§ 12-13-101 thru 119
1) Definition of entity to be regulated	Continuing Care §7(b) Furnishing shelter and either medical or nursing services or health benefits to individuals 60 yrs or older, not blood related for life or more than 1 year under written agreement which requires trans- fer of assets or entrance fee not- withstanding periodic charges.	Continuing Care §651. 011(2) Furnishing shelter, food and nursing or medical services as designated in agree- ment to individual not blood related upon payment of en- trance fee. Continu- ing care includes, life care, care for a period of more than one year.	Life Care Contract §1771(1) provides for life or term of years (more than 1 year) nursing, medical or health services, board and lodgings and care as necessary or any com- bination of services conditioned on trans- fer of property in- cluding entrance fee periodic charges.	Life Care Contract §20-1801(4) Contract to provide person for life or term of years (more than 1) nursing, medical or health related services, board and lodging conditioned on pay- ment of entrance fee in addition to or in lieu of periodic charges.	Life Care §12-13-101(5) Care provided under con- tract for life of aged person including health care, board, lodging or other necessities.  Life Care Contract §12-13-101(6) Contract to provide life care for life conditioned upon payment of entrance fee in addition to or in lieu of periodic charge for services.
2) Administer- ing Agency	Office on Aging §8	Department of Insur- ance §651.015	Department of Social Services §1771(d)	Department of Insur- ance §20-1801(4)	Department of Insurance §12-13-101(2)
3) Certification a) Require- ment	§9 - Yes  cannot sell contract without certificate of authority	§651.021 - Yes  required for opera- tion of business	§1770 - Yes  cannot sell contract without certificate of authority	§20-1802 - Yes  Cannot sell contract without permit	§12-13-102 - Yes  cannot sell contract or construct facility with- out certificate of authority
b) provision- al certifi- cation re- quirement	§11 No but if there is no facility by effective date of rules then must regis- ter intent to provide services & feasibil- ity study.	§651.031 Yes provisional certi- ficate must be approved to make feasibility study in order to apply for certification	No	No	No

	Maryland	Florida	California	Arizona	Colorado
c) provision for suspension or revocation of certification	<p>\$22 Certificate or renewal may be suspended or revoked for cause by Office on Aging. Grounds include violating rules, regulations or misrepresentation of false financial statements.</p>	<p>\$651.106 (1-9) Suspension or revocation of renewal based on grounds which are listed and include deficiency assets, material misstatement or fraud in obtaining certificate, lack of trustworthiness, dishonest practices of management, refusal to be examined by dept.</p>	<p>\$1784(a) (1-9), Certificate may be suspended or limited for cause. Procedure and right of appeal are listed. Grounds include failure to maintain minimum in reserve requirement, file financial audit, violations of any rules by dept. Certification valid till revoked.</p>	<p>\$20-1803(B) No provision for suspension. Certification valid until revoked.</p>	<p>\$12-13-103(1), (2), (3)</p>
d) Annual renewal required	<p>\$10(b) Annual renewal application accompanied by certified financial statement.</p>	<p>\$651.026(1)(4)(11) Annual renewal including all the information as certification application.</p>	<p>\$1784(a) Certification valid till revoked.</p>	<p>\$20-1803(B) No Certification valid till revoked.</p>	<p>\$12-13-108 Annual report must accompany annual renewal application including annual financial statement.</p>
e) Example of attachments to and information required in the application for certification other than name, address of facility	<p>\$10 No but \$11(b) financial feasibility for proposed project must be in feasibility study.</p>	<p>\$651.026 No but \$651.031 financial feasibility for proposed project must be in feasibility study.</p>	<p>\$1771.5 For five year period beginning with date of expected opening. Details of how this statement should be made.</p>	<p>\$20-1802</p>	<p>\$12-13-102</p>
(1) projected income and expenses	<p>No but \$11(b) financial feasibility for proposed project must be in feasibility study.</p>	<p>No but \$651.031 financial feasibility for proposed project must be in feasibility study.</p>	<p>\$1771.5 For five year period beginning with date of expected opening. Details of how this statement should be made.</p>	<p>\$20-1802(B) (14) if facility is not complete then estimates of cost, fees to be collected and mortgage information must be attached.</p>	<p>\$12-13-102(p) for 3-year period beginning with date of expected opening. Details of how this statement should be made.</p>

Maryland	Florida	California	Arizona	Colorado
(2) List of the names of the true owners of facility including the boards of corporations, any principals with more than 10% stock interest or parent company.	Yes \$651.026(4)(b) each annual statement must include this information and in addition any names of professional service firms that provide any service to the facility with value over \$500.	Yes \$1771.8(d),(e),(i)	Yes \$20-1802(B)(4),(5),(9)	Yes \$12-13-102(2)(e)
(3) financial statement	Yes \$10(a)(4) Balance sheet and income statements for 3 most recent years.	Yes \$1771.4 Balance sheet and income statements for 3 most recent years.	Yes \$1802(B)(15) Balance sheet and related statements of income, earnings, equity, changes in position for 3 years by CPA.	Yes \$12-13-102(2)(0) 3 most recent years prepared by CPA.
(4) Any pending court action of any principals, etc. (listed in #2 above) or restrictive order arising out of business activity of health care including foster care facility, nursing home, retirement home etc.	Yes \$651.026(6)(c) Also requires statements of any individuals identified in application who have been convicted of felony or pleaded nolo contendere to a felony involving fraud embezzlement or misappropriation of property.	Yes \$1771.8(k)	Yes \$20-1802(B)(11)	Yes \$12-13-102(2)(k) also includes any third-party service provider.

	Maryland	Florida	California	Arizona	Colorado
(5) Copy of agreement to be used between provider and subscriber	Yes \$10(a)(6)	Yes \$651.026(4)(c)	No	Yes \$20-1802(B)(3) including the charges to be paid by residents and methods of payment of fees and charges	Yes \$12-13-102(2)(d), including fees and methods of payment and in paragraph (m) the terms and conditions under which the contract can be cancelled by provider.
(6) Any affiliation between provider and a non-profit charitable or religious organization and the contractual and financial obligation of this affiliate.	Yes \$10(a)(5) in addition in \$10(a)(9) a statement about any role of public funded benefit or insurance programs must be explained.	No	Yes \$1771.8(h)	Yes \$20-1802(B)(8)	Yes \$12-13-102(h)
4) Escrow requirement	Yes \$11(c) collection of deposits from prospective members until certification given	Yes \$651.031(6) \$651.033 All entrance fees collected until feasibility study approved and commitment for long term financing made. Rules about where escrow accounts can be made, release information and escrow agreements detailed.	Yes \$1774.4 Escrow account is condition of certification. The amount must be equal to amount of principal and interest, rental, or lease payment for 12 months. Simple formula for release of funds.	Yes \$20-1804(A) Escrow account condition of certification for all fees collected prior to occupancy. Complicated formula for release of funds.	Yes \$ 12-13-104 Escrow account condition of certification. Complicated formula for release of funds.

Maryland	Florida	California	Arizona	Colorado
NO	Yes §651.034 Minimum liquid reserve equal to 1/2 aggregate amount of principal and interest due during 12 month period on mortgage or other long term financing including taxes and insurance.	Yes §1775 Amount to be determined by using a standard of valuation based upon table of mortality selected by Department of Social Services in consultation with Department of Insurance.	Yes §20-1806 The aggregate principal and interest payments due during 12 month period on account of first mortgage or other long term financing plan. Simple formula for release to provider. Also see §20-1808(A) Provider shall possess in 1st years assets equal to 15% unamortized endowment fees which are based on life expectancy of purchasers. Ratio requirement increase by 5% each year till 5th year equal to or greater unamortized endowment fees plus all liabilities including long term debt.	Yes §12-13-107 65% of the amount of any advance payments made by residents. Straight line amortization over 5 year period. At no time to fall below 30% of original reserve requirement.
NO	Yes §651.041 Investments as prescribed in Part II Chapter 625. (insurance companies)	Yes § 1775(a-f) A list delineating what types of deposits notes, bonds and stocks are acceptable. In addition 70% of the net equity in the real estate and furniture and equipment used to provide care and housing for the residents may be used in calculating the amount of reserve	No	Yes §12-13-107(2) (3) A list delineating what types of accounts, notes, bonds, stocks, trusts etc. are acceptable. In addition 75% of the net value of real estate and 30% of the net value of furniture and equipment may be used in calculating the reserve. 10% of reserves must be in listed stocks, bonds, accounts, certificates

5) Reserve requirements

List of investments permitted.



	Maryland	Florida	California	Arizona	Colorado
6) <u>Lien Provisions</u> a) preferred claims	NO	Yes §651.071 (1) In event of liquidation all CC agreements are preferred claims. But they shall be subordinate to any claims such as mortgages or security agreements.	Yes §1772, §1777 State department shall record notice of lien in county. In event of liquidation this lien preferred claim.	Yes §20-1805 Director records lien in amount equal to reasonable value of services for each resident. Lien is preferred claim to all encumbrances subsequently recorded as to what is in notice of lien and action for violation is included in the section.	Yes §12-13-106 A condition of certification is recording lien on behalf of residents. Details of what is in the lien and action for violation is included in this section. All liens are preferred to all liens recorded later in time.
b) lien may be subordinated to first mortgages or other long term financing agreements which are recorded subsequently.	NO	Yes §651.071(3) As long as other encumbrance is recorded at least 4 months prior to liquidation proceedings they have priority over resident's lien.	NO §1777	Yes §20-1805(I) Director may subordinate any lien to first mortgage regardless when lien attaches.	Yes §12-13-106(9) Commissioner may subordinate to any other lien to first mortgage or other financing.
7) Prior approval necessary for advertising or promotional material	No But see §10(a)(10) A sample of advertising must accompany application for certification for 5 year period.	Yes §651.095 All advertising or circulars must have approval. If not rejected within 15 days they are deemed approved. Financial responsibility of any named individuals or organization must be clearly written.	No But see §1789.2 Any advertisements etc., which refers to an individual or organization must have on file a document of acceptance of responsibility & liability for such contracts.	NO	No But see §12-13-116 Any material used to induce or solicit and which refers to individuals or organization must clearly state extent of financial responsibility assumed by individual or organization.

	Maryland	Florida	California	Arizona	Colorado
8) Investigative/Enforcement Provisions a) inspections	Yes §17 General investigative authority in Office on Aging. If facility is subject to licensure by Dept. of Health & Mental Hygiene Coordination of inspection to avoid duplication should be made.	Yes §651.105 §651.111 General examination authority given to Dept. of Insurance to inspect from time to time to assess financial stability of facility. In addition anyone may request an inspection of records and related financial affairs by submitting notice of alleged violation to Dept. of Insurance. A provider may not retaliate or discriminate against a resident or employee who may initiate a complaint.	No	Yes §20-1809 Investigate as often as deemed necessary and have the same powers as those for examinations of insurers.	Yes §12-13-110 Investigate as often as necessary and have the powers set forth for examination of insurers.
b) injunctive relief available	Yes §20 Any subscriber or the Office on Aging may institute action for equitable relief.	Yes §651.125 Department may bring action in Circuit Court in the County. This action will not abate by reason of sale or transfer of ownership.	Yes §1790.1(a) In the event of threat of closure of facility the director may petition court for TRO to prevent provider from disposing or transferring assets	No	Yes §12-13-117 Commissioner may bring action through Attorney General for any violations. No need to allege facts to show lack of remedy at law or irreparable damage.

	Maryland	Florida	California	Arizona	Colorado
c) Delinquency proceedings	Yes \$20(b) Office on Aging may appoint a receiver who has powers to rehabilitate, conserve or liquidate as provided by Art. 48A §132-16A 164A relating to rehabilitation and liquidation of insurance companies.	Yes \$651.114(5), (6) The Department has powers to rehabilitate, conserve, reorganize, seize, if necessary under provisions of Part I of Chapter 631 in regard to delinquency proceedings of insurance companies.	Yes see §1790.1790.1, 1790.2, 1790.3, 1790.4, 1790.5, 1790.6 If provider fails to comply with provisions, Director may require a plan to overcome deficiencies to be submitted and approved. The Director may petition court to assume management of facility and appoint administrator from a special list. Administrator has all powers to rehabilitate or after a hearing with Advisory Board to end rehabilitation attempts and liquidate.	Yes \$20-1808 (C-1) The Director may petition the court through the Attorney General's office to assume management of the facility if there is reason to believe the facility is not financially sound. The Director may take possession and rehabilitate the facility with all the powers that the Administrator had. He may apply to court for order to liquidate if found necessary.	Yes §12-13-109 If the Commissioner has reason to believe the facility may become insolvent due to information from the escrow agent. The Commissioner may be directed to take possession and preserve all assets and do the duties of the administrator of the facility. The court can further order an end to rehabilitation or direct liquidation proceedings after a hearing.
d) civil and/or criminal penalties for violations	Yes §18(c) Misdemeanor \$1,000 fine, 6 months in jail.	Yes \$651.125 felony 3rd degree	Yes §1788 Misdemeanor	Yes \$20-1811 Class 2 misdemeanor	Yes §12-13-112 \$1,000 fine 6 months in jail
9) The right of residents to self-organize	No	Yes §§651.081, 651.085 The members have the right to self-organize and engage in activities for the purpose of keeping informed. In addition the Governing body of the facility shall have quarterly meetings with residents to discuss programs and services.	No	No	Yes §12-13-114(e) In each life care agreement, the rights of residents to participate individually or as part of a group of residents in management of facility.

	Maryland	Florida	California	Arizona	Colorado
10) Financial disclosure to residents	No But see §10(f) The Office on Aging shall publicize the availability of public inspection of all information in the application for certification.	Yes § 651.091 (1,3,4) The facility shall make available for inspection copies of cost and inspection reports. The facility must also post in a prominent position in the facility a summary of the latest annual statement and where full statement may be inspected.	Yes §1779(c) The continuing call agreement must include a copy of the current financial statement.	Yes §20-1812 At the time of or prior to execution of life care contract the provider must deliver to person a copy of the facility's certified financial statement and feasibility study.	Yes §12-13-114
11) Statutory requirements of continuing care contracts	Yes §13	Yes §651.055	Yes §1779	No But see §20-1812 (E) At the time, or prior to execution, of the agreement, provider shall deliver a disclosure statement containing financial statement and a caveat that a permit issued by the department of insurance didn't constitute approval, recommendation or endorsement of facility.	Yes §12-13-114
Some of these requirements are:					
a) Complete list of all property transferred and entrance fees paid.	Yes §13(a)(1)	Yes §651.055(1)(a)	Yes §1779(a)	No	Yes §12-13-114 (1)(a)

Maryland	Florida	California	Arizona	Colorado
(b) Complete list of all services to be provided designating if it is for life or only for a period of years re: food, shelter, medical and nursing care and any items to be provided.	Yes \$13(a)(2) also see \$13(a)(10) funeral and burial services not provided must be stated.	Yes \$651.055(1)(b) In addition, it includes burial. also see \$651.055(1)(i) Advance notice of 60 days for any changes in service must be written in the agreement.	Yes \$ 1779(b) In addition, it includes clothing and burial.	Yes \$12-13-114(1)(b) In addition it includes transportation, clothing and burial.
(c) Provision for monthly fees and if subject to periodic increases.	Yes \$13(a)(8) Must be clear and understandable language in print no smaller than the largest type used in the agreement.	Yes \$651.055(1)(i) Agreement shall include advance notice of 60 days for changes in fees, or services.	Yes \$1779(a) must be printed in size equal to 10 point boldface type.	Yes \$12-13-114 (1)(d)
(d) Provision for refund written in agreement.	Yes \$ 13(a)(6) Must be clear and understandable language in print no smaller than largest print used in agreement, the terms governing refund any portion entrance fee in event discharge by provider or cancellation by subscriber.	No But see \$651.061 provisions for refund not required in agreement	Yes \$1779(d)	Yes \$12-13-114(f)

	Maryland	Florida	California	Arizona	Colorado
(e) Right to rescind written in the agreement	No But see §14 not required in the agreement but right available for any reason prior to occupancy.	Yes §651.055(2) No penalty or forfeiture within 7 days after making deposit or executing contract. Individual may not be required to move in during this period. See also §651.055 (a) In addition the right to rescind on 30 day notice by any party. Refund to be made within 120 days calculated on a pro rata basis no more than 2% per month of occupancy.	Yes §1779(d)(e)(f) A conspicuous statement located directly above the space for signature allowing cancellation within 90 days must be printed on the agreement in at least 10 point boldface type. A notice of cancellation form is attached to agreement. See also §1779.9 Individual may not be required to move in during first 7 days of 90 day cancellation period.	No	Yes §12-13-114 (1)(d)
(f) Terms under which agreement is cancelled in the event of death written in the agreement	Yes §13(a)(7)	Yes §651.055(1)(h) These terms may include provision that entrance fee is property of provider upon death of resident.	No	No	No
(g) include financial statement with contractual agreement	No	No	Yes §1779(c)	Yes §20-1812	Yes §12-13-114 (1)(i) including statement of earnings for previous 24 month period.



	Maryland	Florida	California	Arizona	Colorado
(h) State terms of policy if resident cannot meet monthly payment	Yes §13(a)(4)	Yes §651.055 (1)(e) The agreement describes the circumstances under which the member may stay in the facility in the event of financial difficulties. See also §651.061 Dismissal for just cause does not include failure to meet monthly fees.	No	No	No
(i) State policy of allowing more than one individual to occupy one unit.	Yes §13(a)(5) Also must state policy when the number of occupants in unit changes.	No, but see §651.055(1)(a) Allows for double occupancy but does not indicate under what conditions.	No	No	No
(j) State the relationship in the agreement of provider with a religious or charitable organization and the financial obligation of that affiliate.	Yes §13(a)(13)	Yes §651.055(1)(k)	No	No	No

	Maryland	Florida	California	Arizona	Colorado
12) Right to rescind the agreement before occupancy	Yes \$14(a) Any reason prior to occupancy	Yes \$651.055(2) Right to rescind written in the agreement, within 7 days of execution of contract or deposit.	Yes \$1779(e)(f)(g) Right to rescind written in the agreement with attached copy of a detailed "notice of cancellation" with information where to send it. Right to rescind within 90 days of execution of contract.	Yes \$20-1802(E) Right to rescind written into agreement within 7 days of execution of contract, payment of deposit or receipt of financial report.	Yes \$12-13-102(5)(a) Right to rescind written into agreement for period of 60 days after execution of contract.
13) automatic cancellation of agreement upon death prior to occupancy	Yes \$14(b)(1) Full refund within 30 days less processing fee and any special costs due to modification of unit upon decedant's request.	Yes \$651.055(5) Full refund except special costs incurred by facility at request of decedant which were set forth in writing and signed by both parties	No	No	No
14) Dismissal from facility	Yes \$15 No dismissal without just cause and advance notice of 60 days.	Yes \$651.061 Dismissal for just cause. Just cause does not include inability to pay monthly fees. A formula for use of unused portion of entrance fee is detailed. After exhausting these monies, facility may not dismiss for 90 days after this.	No	No	Yes \$12-13-105(1) Difference between the amount paid in and the amount used for care during time in facility based on per capita cost to facility as determined by Commissioner.

	Maryland	Florida	California	Arizona	Colorado
15) Refund as result of dismissal	Yes \$15 Dismissed for just cause, refund formula equal to entrance fee divided by subscriber's years of expected lifetime at admission multiplied by year's of expected lifetime at dismissal.	Yes \$651.061(1) Refund for dismissal for just cause same as refund for cancellation with 30 day notice see \$651.055(1)(g) formula detailed.	No But see \$1779.8 Refund for cancellation includes all entrance fees less a processing fee to cover cost and reasonable value of services rendered after first 7 days. In addition facility may not transfer any property within 90 day cancellation period.	No	Yes \$12-13-105(1) Difference between the amount paid in and the amount used for care during time in facility based on per capita cost to facility as determined by Commissioner.
16) No act or statement may constitute a waiver of rights	Yes \$16	Yes \$651.065	No	No	No
17) Advisory Board	No but the Office on Aging has appointed an ad hoc committee without legislative mandate.	Yes \$651.121 7 members appointed by the Governor	Yes \$1791 8 members appointed by the Governor	No	No
18) Address Pre-Paid life care	\$13(a)9 Within the required provisions of agreements this provision shall "provide that charges for care paid in advance in one lump sum only shall not be increased or changed during the duration of the agreed upon care."	No	\$171(1) Within the definition section "pre-paid life contract means a life contract under which the advance payment, including any entrance fee, is more than 9 times the annual amount of the monthly care fee or 108 times the monthly care fee. Life care contracts which provide for changes in the monthly care fee to cover the actual cost of care are excluded from this definition.	No	No

Maryland	Florida	California	Arizona	Colorado
<p>19) Disclaimer</p> <p>No</p>	<p>No</p>	<p>No</p>	<p>Yes §20-1812 The cover of the disclosure statement given at the time of or prior to execution of the contract must include in bold-faced print "A permit for this life care facility has been issued by the Arizona department of insurance. This permit does not constitute approval, recommendation or endorsement of the life care facility by the department, nor does it evidence the accuracy or completeness of the information in this statement".</p>	<p>No</p>

BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
<p>Independent living Domiciliary care Nursing care</p> <p>TOTAL</p> <p>Private and semi-private rooms</p>	<p>Domiciliary care accommodates residents who are able to live independently to take care of personal hygiene to go to dining room for meals</p> <p>Nursing care accommodates residents who require services of registered nurses attention to personal needs meals in room</p> <p>All believers of Christian faith</p>	<p>5 Plans: 2 for Domiciliary Care 3 for Nursing Care</p> <p>1. \$20,000-\$35,000 Entrance Fee plus \$10/day, plus any additional costs not covered</p> <p>2. \$700 per month plus \$10/day plus any additional costs</p> <p>3. Use of entrance fee at the rate of \$200 per week plus \$10/day plus any additional costs</p> <p>4. Sufficient assets</p> <p>5. \$900 per month plus \$10/day plus any additional costs</p>	<p>Given under two classifications:</p> <p>Domiciliary care and nursing care which include:</p> <p>Room</p> <p>3 meals per day</p> <p>Nursing care, as needed</p> <p>Physicians care, as needed</p> <p>Use of recreation facilities</p> <p>Nursing care linen service</p> <p>All utilities, except phone</p>
<p>Independent living Domiciliary care Nursing care</p> <p>TOTAL</p> <p>Nursing facility is separate</p>	<p>65 years of age</p> <p>Good mental and physical health</p> <p>Able to live independently and care for self and apartment</p>	<p>An entrance fee of \$17,400 - \$36,300</p> <p>Plus a monthly fee of \$292 - \$595</p> <p>Payment of nursing home rate, when needed</p>	<p>Apartment</p> <p>1 meal per day</p> <p>Priority for admission to nursing facility</p> <p>Utilities</p> <p>Maintenance</p> <p>Social and recreational facilities</p>

ARLINGTON BAPTIST (18)

ASBURY METHODIST APARTMENTS (16)

BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
<p>Independent living 0</p> <p>Domiciliary care 50</p> <p>Nursing care 51</p> <p>TOTAL 101</p>	<p>Domiciliary care accommodates residents who are able to live independently to take care of personal hygiene to go to dining room for meals</p> <p>Nursing care accommodates residents who require services of registered nurses attention to personal needs meals in room</p> <p>All believers of Christian faith</p>	<p>5 Plans: 2 for Domiciliary Care 3 for Nursing Care</p> <p>1. \$20,000-\$35,000 Entrance Fee plus \$10/day, plus any additional costs not covered</p> <p>2. \$700 per month plus \$10/day plus any additional costs</p> <p>3. Use of entrance fee at the rate of \$200 per week plus \$10/day plus any additional costs</p> <p>4. Sufficient assets</p> <p>5. \$900 per month plus \$10/day plus any additional costs</p>	<p>Given under two classifications:</p> <p>Domiciliary care and nursing care which include:</p> <p>Room</p> <p>3 meals per day</p> <p>Nursing care, as needed</p> <p>Physicians care, as needed</p> <p>Use of recreation facilities</p> <p>Nursing care linen service</p> <p>All utilities, except phone</p>
<p>Independent living 393</p> <p>Domiciliary care 0</p> <p>Nursing care 0</p> <p>TOTAL 393</p> <p>Nursing facility is separate</p>	<p>65 years of age</p> <p>Good mental and physical health</p> <p>Able to live independently and care for self and apartment</p>	<p>An entrance fee of \$17,400 - \$36,300</p> <p>Plus a monthly fee of \$292 - \$595</p> <p>Payment of nursing home rate, when needed</p>	<p>Apartment</p> <p>1 meal per day</p> <p>Priority for admission to nursing facility</p> <p>Utilities</p> <p>Maintenance</p> <p>Social and recreational facilities</p>

ARLINGTON BAPTIST (18)

ASBURY METHODIST APARTMENTS (16)



## BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
Independent living Domiciliary care Nursing care TOTAL Nursing facility is separate	65 years of age 5 consecutive years membership in the United Methodist Church Good mental and physical health	1. Pay determined by cost of care plus 1/2 of remaining income and assets 2. Transfer of assets if cost of care cannot be met	Room 3 meals per day Transfer to nursing facility when needed Assisted living services, as needed Medical services of staff physician and nurse Drugs Hospital care
Independent living Domiciliary care Comprehensive care TOTAL	65 years of age or older Good moral character Preference given to Lutherans of Congregations affiliated with Home	Asset management - transfer of assets Room & Board - Entrance fee of \$5,000 plus a monthly fee of \$1,050 for domiciliary care and \$1,540 for comprehensive care	Lodging Board Basic maintenance Medical care Nursing care for which it is licensed Laundry service Light housekeeping

ASBURY METHODIST HOME (17)

AUGSBURG LUTHERAN HOME (19)

## BREAKDOWN OF CONTINUING CARE -CHES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
Independent Units Domiciliary care Comprehensive care TOTAL	65 years of age or older Must reside in the area covered by the Baptist Convention of Maryland (Maryland, Delaware, or New England) Members in good standing of a Baptist church Ambulatory	Plan A - Entrance Fee of \$15,000 plus a monthly fee of \$1,050 to \$1,350 depending on accommoda- tion plus \$15 daily for use of infirmary Plan B - Entrance Fee of \$2,500 plus the transfer of assets (Presently there is a moratorium on Plan B)	Plan A - Room Food Laundry Weekly Maid Service Infirmary facilities, when required Plan B - Lifetime care
Independent Units Domiciliary care Comprehensive care TOTAL	65 years of age or older Meet financial and medical review	Entrance fee of \$32,000 - \$77,000 plus a monthly fee of \$715-\$1,573, depending on accommodations	Living accommodations Meals Housekeeping services Maintenance and repair services Medical services Nursing services

BAPTIST HOME (11)

BROADMEAD (3)

BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
Independent Units Cottages           46 Apartments       67 Domiciliary care   0 Comprehensive care* TOTAL           113   99   99	60 years of age Good health, ambulatory	1. Entrance fee of \$36,000 - \$67,000 plus a monthly service fee of \$70 - \$90 for a cottage 2. Entrance fee of \$30,900 - \$71,750 plus a monthly fee of \$215 - \$400 for an apartment Daily rate for nursing home	1. Living Unit Maintenance Preference for nursing home admission 2. Living Unit Maintenance Recreational facilities 1 meal Preference for nursing home admission Some personal care will be available
*Nursing home separate facility	Good Health	1. Transfer of assets and income from which is deducted monthly cost of care of \$1,480 for single room and \$2,220 for suite 2. Payment of monthly cost of care	Room 3 meals Housekeeping services Medical services Nursing services
Independent Units Domiciliary care Comprehensive care TOTAL           87			

CARROLL LUTHERAN (8 & 21)

CHURCH HOME (6)

BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
Independent Units 240 Domiciliary care 35 Comprehensive care 64 TOTAL 339	65 years of age or older Meet financial and medical review	Entrance fee of \$20,000 - \$70,000 plus a monthly fee of \$650 - \$1,605 depending on accommodations	Living Unit Meals Housekeeping services Maintenance services Medical services Nursing services
Independent Units 0 Domiciliary care 21 Comprehensive care 4 TOTAL 25	65 years of age A resident of Frederick County for 5 years or have family who have resided in Frederick County	Transfer of assets and income	Room Meals Medical care Nursing care Provide care, support and maintenance of resident for life

(2) FAIRHAVEN

(22) THE AGED FOR HOME FREDERICK

BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

<u>UNITS</u>	<u>ELIGIBILITY REQUIREMENTS</u>	<u>PAYMENT PLANS</u>	<u>SERVICES</u>
Independent Units Domiciliary care Comprehensive care  TOTAL	62 years of age Resident of Maryland Ambulatory In good health	Payment of an accommodation fee of \$2,000 for each year of life expectancy plus a monthly fee of \$625 for domiciliary care or \$850 for nursing care	Room Housekeeping & Maintenance Meals Personal care, when required Nursing care, when required Recreational activities
Independent Units Domiciliary care Comprehensive care  TOTAL	62 years of age Member of subordinate Lodge of the Most Worshipful Grand Lodge of Ancient Free and Accepted Masons of Maryland or member's Mother, wife, widow, or Unmarried Daughter Good health	Transfer of assets and income	Living Unit Meals Housekeeping Maintenance and repairs Activities Complete medical care Nursing care

GENERAL GERMAN HOME (1)

MARYLAND MASONIC (10)

BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
Independent Units (in planning stages) Domiciliary care                   0 Comprehensive care           300 TOTAL                               300	65 years of age Members of congregations affiliated with the Maryland Synod, the Virginia Synod of the Lutheran Church in America, and the Potomac Conference of the Eastern District of the American Lutheran Church	1. Trustee Plan - \$1,000 entrance fee plus complete transfer of assets and income 2. Assistance Plan - cost covered by Medical Assistance 3. Boarding Plan - monthly payment of \$1,427	Living Unit Meals Medical care Nursing care Maintenance Recreational activities Housekeeping
Independent Units Domiciliary care Comprehensive care TOTAL	65 years of age Good health Preference given to those with no living children	1. \$1,000 entrance fee and transfer of assets and income 2. Entrance fee of \$5,000 plus a monthly fee of \$762 for domiciliary care and \$1,271 for comprehensive care	Board Lodging Maintenance Nursing care Recreational activities Medical care

NATIONAL LUTHERAN HOME (7)

PICKERSGILL (20)



BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS		ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
Independent Units Domiciliary care Comprehensive care	0 82 22 <u>104</u>	65 years of age Member of a Maryland Presbyterian congregation for 10 years previous to application Appropriate health to pass required examinations	1. Transfer of assets and income with an entrance fee of \$5,000 if resident has no children or \$10,000 if there are living children 2. Entrance fee of \$10,000 - \$20,000 plus a monthly fee of \$550 - \$1,000 depending on accommodations	1. Room and Lodging Meals Maintenance & Housekeeping Nursing, dental, medical and surgical care 2. Room & Lodging Meals Maintenance & Housekeeping Medical and nursing care
	TOTAL 104			
Independent Units Domiciliary care Comprehensive care	0 40 8 <u>48</u>	Women 65 years of age or older Resident of the Diocese of Maryland and member of the Protestant Episcopal Church for 5 years prior to application	Transfer of assets and income	Room Board General dental and medical care
	TOTAL 48			

PRESBYTERIAN HOME (9)

UPLANDS HOME (12)

BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
Independent Units Domiciliary care Comprehensive care  <div style="text-align: right;">                         0                          233                          55  <hr/>                         TOTAL 288                     </div>	65 years of age or older Mentally & physically able to care for self Member for 10 years prior to admission of a participating United Methodist Church	Plan I: Transfer of assets and income Plan II: Entrance fee of \$10,000 plus a monthly fee of \$650 plus 1/2 Social Security increases plus 5% automatic annual increase Plan III: Entrance fee of \$15,000 - \$25,000 plus a monthly fee of \$750 plus 1/2 Social Security increases plus 5% automatic annual increase	Accommodations Recreational facilities Meals Maintenance & Housekeeping Medical Services
Independent Units Cottages Domiciliary care 80 beds in 64 apartments Comprehensive care  <div style="text-align: right;">                         16                          80                          58  <hr/>                         TOTAL 154                     </div>	Any person interested in retirement community living	Apartments: - entrance fee of 4 times the monthly fee of \$800 - \$1,475 depending on accommodations - payment of nursing home daily rate, when necessary Cottages: - purchase price with limited title of \$50,000 - \$90,000 plus a monthly service fee of \$900 - \$1,350 depending on accommodations	Accommodations Meals Housekeeping Recreational activities Medical and nursing care on a limited basis

WESLEYAN HOME (13)

WILLIAM HILL MANOR (15)

BREAKDOWN OF CONTINUING CARE HOMES (EXISTING)

UNITS	ELIGIBILITY REQUIREMENTS	PAYMENT PLANS	SERVICES
Independent Living Units 181 Domiciliary Care 20 20 beds in 12 units 0 Comprehensive care TOTAL 201	62 years of age or older	Entrance fee of \$22,900 to \$72,000 plus a monthly fee of \$468 - \$669 Payment of nursing home rate when level of care is necessary	Living accommodations Maintenance 1 meal Use of assisted living unit Recreational activities
Independent Units Cottages 65 Apartments 59 124 Domiciliary care* 43 Comprehensive care* 93 TOTAL 124 136	65 years of age or older Live independently and attend to their personal needs.	Entrance fee of \$24,900 - \$54,900 plus a monthly maintenance fee of \$50 Payment of nursing home rate when needed.	Living accommodations Maintenance Guaranty of priority in admission to health care facility Recreational activities
Independent Units 240 Domiciliary care 10 Comprehensive care 80 TOTAL 278	65 years of age or older	Entrance fee of \$49,000 - \$99,200 plus a monthly fee of \$890 - \$1,930	Living unit Recreational activities 1 meal Housekeeping Maintenance Nursing Services

CHARLESTOWN (23)

HOMEWOOD (5)

KULAND PARK (4)

APPENDIX C



## General Assembly of Maryland

### SPECIAL JOINT SUBCOMMITTEE ON CONTINUING CARE RETIREMENT COMMUNITIES

Room 110  
LEGISLATIVE SERVICES BUILDING  
90 STATE CIRCLE  
ANNAPOLIS, MARYLAND 21401-1991

#### MINUTES

July 17, 1984  
10:00 a.m.

#### Members Present

Senator Barbara Hoffman, Co-Chairman	Delegate Paula Hollinger, Co-Chairman
Senator Norman Stone	Delegate Robert Kramer
Senator John Bambacus	Delegate Margaret Murphy

Senator Hoffman called the meeting to order and asked Mr. James Chmelik, Assistant Director of the Office on Aging, to brief the subcommittee on continuing care.

Mr. Chmelik gave a brief history of the development of Maryland's continuing care contract law and suggested that the subcommittee consider the extent to which government ought to regulate the continuing care industry. He also brought to the subcommittee's attention a problem with the statute.

Previously, Mr. Chmelik explained, the Office on Aging interpreted the word "existing" to mean an existing financial plan, not as a completely constructed community. This allowed the Office to issue a certificate thereby enabling the provider to sell contracts and obtain funding to complete the project. The Office on Aging can no longer operate this way according to its assistant attorney general. Therefore to remedy this situation, regulations are being promulgated to provide for a temporary certificate that would allow development of a community to proceed.

In response to several questions Mr. Chmelik provided an overview of the continuing care industry in Maryland, the process of approving projects and issuing certificates and outlined areas of the existing statute that might be improved. These include a requirement that subscribers be informed that escrowed deposits are collateral to the financing bond, that subscribers be given statutory authority to organize resident associations, and that provision be made for a temporary certificate and for auditing standards.

Mr. Chmelik also explained the regional differences in markets and discussed the certificate of need (CON) process as it relates to comprehensive care beds in

(Contd.)

Sp. Jt. Subcommittee on  
Continuing Care Retirement Communities  
Minutes - July 17, 1984, Page 2

continuing care communities. He also indicated that a need exists for a device to deal with communities that do not use sound business practices although this is a difficult problem.

Ms. Maxine Adler, representing the Maryland Association of Non-Profit Homes for the Aging, briefly addressed the subcommittee. She noted that Maryland's continuing care industry is one of the soundest in the nation. Ms. Adler raised the issue of deposits and escrow funds. This, she said, needs to be addressed to prevent excessive community shopping by subscribers. Evidently the sudden withdrawal of deposits by a subscriber before occupancy can wreck havoc on a community that is trying to get off the ground. Ms. Adler also noted that the state health plan provides a definition of life care that is not possible to meet regarding comprehensive care beds. Finally, she explained that life care and continuing care are different. Life care is an agreement to provide for all needs for life; continuing care provides for a specific set of services for the duration of the contract.

Following a brief discussion of its work plan the subcommittee agreed to meet on July 31 and adjourned until then.

KA/rmb





## General Assembly of Maryland

### SPECIAL JOINT SUBCOMMITTEE ON CONTINUING CARE RETIREMENT COMMUNITIES

Room 110

LEGISLATIVE SERVICES BUILDING

90 STATE CIRCLE

ANNAPOLIS, MARYLAND 21401-1991

#### MINUTES

July 31, 1984

#### Members Present

Delegate Paula Hollinger, Co-Chairman  
Delegate Margaret Murphy  
Delegate Robert Kramer

Senator Barbara Hoffman, Co-Chairman  
Senator Norman Stone

Delegate Hollinger brought the meeting to order and provided a brief summary of the subjects covered at the previous meeting. Senator Hoffman noted that the Office on Aging was developing an audit guide and possibly promulgating regulations to deal with the certification process. She suggested that the subcommittee let the AELR Committee know it is interested in the review of those proposed regulations.

Discussion then turned to the nature of life care and continuing care and the transfer of individual assets to a community. It was noted that insufficiency of assets to meet individual's needs is dealt with on a community-by-community basis; however, provision is usually made so that individuals are not cast out due to an inability to pay.

Staff provided an overview of the services and requirements offered by the existing communities in Maryland. It was noted that an extensive variety exists and that standardized definitions are difficult to obtain, thereby obstructing a good statistical analysis.

Senator Hoffman asked several questions concerning statutory safeguards to protect residents from proprietary providers (for-profit). Mr. James Chmelik explained that there is really no difference between non-profit and for-profit providers and in any event a proprietary could always create a non-profit management company to operate the community.

After a general discussion of continuing care communities, during which Rosalie Abrams, Director of The Office on Aging, provided it with her concerns in the continuing care area, the subcommittee was invited to attend the audit guide hearing to be held by the Office on Aging to receive industry input on August 20. The subcommittee then agreed to meet on the 28th of August and adjourned.

NOTE: The August 28 meeting was rescheduled for September 12, 1984.

charge an entrance fee and a monthly fee. The average entrance fee charged in Maryland is estimated to be \$33,094 and the average monthly fee is approximately \$812.\* Some communities offer an array of plans depending on the type of care and living accommodations that are being sought.

Nationally collected data suggest that the national average for entrance fees is similar to Maryland's experience. For one person, the national average entrance fee is \$34,689; for two persons, it is reported as \$38,582. The data also suggest that entrance fees vary by region and are related to construction and finance costs.<sup>3</sup> Monthly fees were found to be related by region, the existence of a health care guarantee,<sup>4</sup> and the size of the resident population in the community.

Several other trends are suggested by the national data. Continuing care contracts are becoming more specific and admission policies are being standardized. Additionally, the revenue bond market has become the primary source of capital for CCCs, replacing conventional mortgages and other traditional sources of financing.

---

\* These averages could only be calculated for those communities that depend solely on entrance and monthly fees and for which data were available.

3. Winklevoss and Powell, Continuing Care Retirement Communities: An Empirical Financial and Legal Analysis, Pg. 34

4. Winklevoss and Powell, Pg. 37



## General Assembly of Maryland

### SPECIAL JOINT SUBCOMMITTEE ON CONTINUING CARE RETIREMENT COMMUNITIES

Room 110  
LEGISLATIVE SERVICES BUILDING  
90 STATE CIRCLE  
ANNAPOLIS, MARYLAND 21401-1991

#### MINUTES

September 12, 1984

#### MEMBERS PRESENT:

Senator Barbara Hoffman, Co-Chairman	Delegate Paula Hollinger, Co-Chairman
Senator Sidney Kramer	Delegate Robert Kramer
Senator Norman Stone	

Senator Hoffman called the meeting to order noting that its purpose was to provide an opportunity for the continuing care communities to comment on the options being considered by the Joint Subcommittee.

Mr. Martin Trueblood, Broadmead, began his remarks with a summary history of the development of the Maryland law, emphasizing that its intent was to protect people. He also noted that the statute is easy to administer; however, it did need some improvement. More specifically, Mr. Trueblood suggested that the question of entrance fees' use should be considered and pointed out that restrictions on the use of deposits would limit non-profit development. He also suggested that occupancy be redefined to deal with the problem of "community shopping" by some subscribers.

Mr. Trueblood spoke about reserve requirements, indicating that they give the appearance of financial soundness but do not provide any real guarantee. He stated that they were removed from the original bill due to gubernatorial opposition based on a fear of state liability. Continuing, Mr. Trueblood noted that the interests of subscribers are better protected by sound long range planning.

In response to a question from Senator Kramer, Mr. Trueblood stated that he had no objection to a reasonable reserve requirement; however, any such reserve would drive up costs to residents. He also noted that there is no need for a medical cost reserve because medical costs were more predictable than food costs.

Mr. Trueblood and Mr. Sal Mohtee, Controller of Broadmead, spoke about the reserve that Broadmead is required to have by its mortgagor. Additionally, it was noted that entrance fees are handled differently among the communities; however, most are amortized over a number of years and are not counted as income in one year.

65

Mr. Donald Bradfield, from Semmes, Bowen & Semmes, stated that there are two significant issues -- the use of deposits and the refund policy. Mr. Bradfield favored the use of deposits upon the closing on construction financing because further restriction of their use would lead to higher subscriber fees or force non-profit providers into the heavily capitalized for-profits control. He also favored a cooling-off period after signing a contract with a subscriber. Once the cooling-off period had elapsed, refunds should be given prior to occupancy only for reasons of significant change in physical, mental, or financial condition. A general discussion about entrance fees, deposits, and obtaining an indicator of "community shopping" followed.

Responding to Senator Hoffman's question, Mr. James Chmelik, Office on Aging, explained how the Office evaluates a feasibility study. He stated that the Office looks to see if the data is reasonable and that the preparer has considered other factors including the presence of competitors. Mr. Chmelik emphasized that approval of the feasibility study is not a guarantee of a market; the only true test of feasibility is the market itself. Mr. Bradfield added that marketing is still an inexact science despite the use of demographics.

Mr. Steven Gardner, Real Estate Financial Services, Inc., spoke about financing continuing care communities. He pointed out that continuing care financing is done on a case by case basis under loan conditions acceptable to the borrower. Additionally the costs of financing these endeavors could be reduced if a uniform basis for making the loans could be achieved. He noted that there are not a lot of alternate uses for continuing care facilities and that this has an impact on lenders.

Mr. Richard Buch, Pickersgill, stated that he was comfortable with the Office on Aging's administration of the law and that he liked the registration and disclosure aspects of Article 70B. He noted, in response to questions, that his community was a "life care" community and in times of high inflation had to raise monthly fees and rely on its endowment. He also favored the proposed audit guide.

The meeting adjourned at 3:45 P.M.



## General Assembly of Maryland

### SPECIAL JOINT SUBCOMMITTEE ON CONTINUING CARE RETIREMENT COMMUNITIES

Room 110

LEGISLATIVE SERVICES BUILDING

90 STATE CIRCLE

ANNAPOLIS, MARYLAND 21401-1991

#### MINUTES

September 26, 1984

#### MEMBERS PRESENT:

Senator Barbara Hoffman, Co-Chairman	Delegate Paula Hollinger, Co-Chairman
Senator Sidney Kramer	Delegate Robert Kramer

Although the meeting was intended to be a work session, the Chairman agreed to let Mr. James Melhorn, Administrator of Fairhaven, present testimony.

Mr. Melhorn stated that he would like the responsibility for continuing care to remain with the Office on Aging. He argued that bringing another agency into the field would only complicate matters and run counter to attempts to consolidate efforts. At the present time, providers must deal continuously with the Office on Aging and the Department of Health and Mental Hygiene.

Continuing, Mr. Melhorn described the average continuing care subscriber as 78 or 79 years of age, a retired middle income professional who entered a continuing care agreement after considerable thought and consultation with a responsible agent. He also noted that 35 percent of the residents of Fairhaven receive a State pension.

Mr. Melhorn said that he favored the disclosure type of law, had no problem with the proposed audit guide, and thought that the two step certification process was a good idea. He opposed reserve or bonding requirements because they did not offer complete guarantees or a guarantee as good as can be provided through good management and disclosure.

Discussions then turned toward establishment of reserves, liens and other mechanisms designed to provide assurances of solvency. It was found that the Office on Aging had little or no statutory authority to require



providers to develop plans to rectify financial problems. The conversation turned to a discussion of financial plans and Office on Aging authority. The idea of a financial review board was discussed as were different ways to protect deposits.

Finally, staff was directed to begin drafting legislation to incorporate some of the discussed ideas into the existing statute and to have the draft ready for the next meeting.



## General Assembly of Maryland

### SPECIAL JOINT SUBCOMMITTEE ON CONTINUING CARE RETIREMENT COMMUNITIES

Room 110

LEGISLATIVE SERVICES BUILDING

90 STATE CIRCLE

ANNAPOLIS, MARYLAND 21401-1991

#### MINUTES

October 23, 1984

#### MEMBERS PRESENT:

Senator Barbara Hoffman, Co-Chairman  
Senator Sidney Kramer

Delegate Paula Hollinger, Co-Chairman  
Delegate Robert Kramer  
Delegate Margaret Murphy

The joint subcommittee met to review draft legislation to the continuing care subtitle of Article 70B. Members discussed and refined the definitions of certified financial statements and financial difficulty. Procedures relating to the financial review committee, approval of feasibility studies and issuance of preliminary certificates of registration were fine-tuned.

After this the members discussed the use of deposits, but came to no consensus.

The meeting was adjourned with the next meeting scheduled for November 7, 1984.



## General Assembly of Maryland

### SPECIAL JOINT SUBCOMMITTEE ON CONTINUING CARE RETIREMENT COMMUNITIES

Room 110

LEGISLATIVE SERVICES BUILDING

90 STATE CIRCLE

ANNAPOLIS, MARYLAND 21401-1991

#### MINUTES

November 7, 1984

#### MEMBERS PRESENT:

Senator Barbara Hoffman, Co-Chairman  
Senator Sidney Kramer

Delegate Paula Hollinger, Co-Chairman  
Delegate Robert Kramer

The meeting was called to order by Delegate Hollinger. She stated that while the meeting was primarily a work session, the subcommittee would hear from Mr. Robert Haldeman.

Mr. Haldeman, who is a Trustee at Broadmead, explained continuing care community financing structures. He also noted that credit sources for communities are divided between conventional sources and retail tax-exempt bonds. Mr. Haldeman opined that restricting the use of deposits until after construction was completed would result in higher costs being passed on to subscribers. By way of example, he suggested that a \$20 million project that could use 50 percent of its collected deposits could save \$250,000 on the charged interest rate.

After Mr. Haldeman's presentation and subcommittee discussion, the subcommittee began working on the revised draft and directed staff to further incorporate language to provide for use of deposits under certain conditions and to alter the certificate of registration procedure so that 50 percent of deposits could be used when at least 50 percent of the units were contracted for, ten percent of deposits were collected, construction financing had been obtained, and the provider had a preliminary certificate of registration. Additionally, the subcommittee directed staff to provide a cooling-off period in the section of the code concerning refunds.

Finally, in preparation for its final meeting, staff was directed to prepare the legislation and a draft report for the subcommittee's review and approval.



## *General Assembly of Maryland*

### SPECIAL JOINT SUBCOMMITTEE ON CONTINUING CARE RETIREMENT COMMUNITIES

Room 110

LEGISLATIVE SERVICES BUILDING

90 STATE CIRCLE

ANNAPOLIS, MARYLAND 21401-1991

#### MINUTES

December 13, 1984

#### Members Present

Senator Barbara Hoffman, Co-Chairman  
Delegate Paula Hollinger, Co-Chairman  
Senator Sidney Kramer

The Joint Subcommittee met briefly to review the final draft of its proposed legislation and final report. It made technical changes in the bills and the report and subsequently approved them.